

**COMMONWEALTH OF PUERTO RICO
TELECOMMUNICATIONS REGULATORY BOARD
OF PUERTO RICO**

FCC's Triennial Review Order)	Case Number JRT-2003-CCG-0004
)	
)	Re: Review of High Capacity Business
)	Customer Local Circuit Switching
)	

WORLDNET RESPONSES TO BOARD INTERROGATORIES

WorldNet Telecommunications, Inc. hereby responds to the interrogatories provided by the Board in Attachment I to its Resolution and Order approved in this proceeding on November 26, 2003. In providing these responses, WorldNet notes that it has included and identified information that is competitively sensitive and confidential. WorldNet therefore requests that the Board not disclose to any party any of the information provided by WorldNet herein that it has marked with the designation **** WorldNet Confidential Information – Board Use Only ****.

RESPONSES

- 1. Provide data on actual costs incurred by your company to purchase and deploy switches noted in response to Question 2, Attachment II of the Board's Interrogatories issued in the above-captioned docket on October 7, 2003.**

Because WorldNet has not yet purchased any switches, this Interrogatory is inapplicable.

- 2. Provide a description of any business plans, restructuring or reorganization proposals, or internal analyses that your company has formulated regarding the feasibility of providing service via UNE-L or the deployment of your own facilities to serve business customers. Include planned use for any existing switches, including types of customers that you are planning to serve.**

REDACTED

REDACTED

3. **Provide your capital budget for each of the next five years for the purchase of switches to serve customers in Puerto Rico.**

REDACTED

REDACTED

4. **Provide by municipality the number of access lines served using your own facilities. Your own facilities include any facilities owned or controlled by you, or any unbundled network elements leased from PRTC. Please separate the number of lines into: (1) those served via any facilities owned or controlled by you; (2) those served via facilities leased from any entity other than PRTC; and (3) those served via unbundled network elements.**

REDACTED

REDACTED

5. **Identify by municipality the number of your company's end user customers that utilize high capacity switching services and where they are located. In doing so, please also identify which such customers are served by your company's facilities, by resale of PRTC services, by PRTC tariffed services, or by utilizing PRTC unbundled network elements.**

REDACTED

REDACTED

6. Identify your company's service area in Puerto Rico.

WorldNet's service area encompasses all of Puerto Rico.

7. State whether the switching capacity of all circuit switches owned or controlled by your company, if any, is ever used for wholesale leasing to competitors, and whether your company would lease capacity to other providers.

WorldNet does not own or control any switches in Puerto Rico, and therefore, this request is not applicable.

8. **Describe your company's experiences, if any, in procuring and deploying any circuit switching in Puerto Rico, including in such description the process and timeframes, any administrative, operation, or technical obstacles or problems encountered, and all costs incurred by your company.**

WorldNet does not own or control any switches in Puerto Rico. Thus far, WorldNet's experience has been confined to obtaining UNE-P from PRTC as opposed to individual UNEs. WorldNet submits that this experience is highly relevant to PRTC's claim that it is "ready, willing, and able" to provide individual UNEs.

WorldNet has experienced significant difficulties in obtaining UNE-P service. At present, all of WorldNet's high capacity customers are served through resale. Although WorldNet has made repeated requests to have these customers migrated to UNE-P service, PRTC has yet to migrate a single enterprise to UNE-P service. In WorldNet's experience, dealing with PRTC to obtain UNE-P has been fraught with exasperating delays and roadblocks.

REDACTED

REDACTED

REDACTED

9. **Describe your company's experiences, if any, with PRTC loop provisioning (DS1 capacity or greater), and PRTC transport provisioning, including in such description the process and timeframes, any administrative, operational, or technical problems encountered, and all costs incurred by your company.**

As noted in WorldNet's answer to Interrogatory 8, WorldNet's experience has been confined to obtaining UNE-P from PRTC as opposed to obtaining individual UNEs. However, WorldNet submits that this experience is highly relevant to PRTC's claim that it is "ready, willing, and able" to provide individual UNEs. As further outlined in Interrogatory Answer 8, PRTC's record in provisioning UNE-P service has been appalling. PRTC has yet to migrate a single WorldNet high capacity resale customer to UNE-P, despite WorldNet's repeated requests. As a further example of PRTC's inability to provision UNEs, WorldNet's current interconnection agreement with PRTC requests that PRTC create a point-to-point dedicated T-1 UNE-P service. A year has elapsed since WorldNet requested this service. PRTC's response has been repeated stalling. To date, PRTC has yet to provide this facility.

10. **Describe your company's experiences, if any, with PRTC in obtaining collocation, including in such description the process and timeframes, any administrative, operational, or technical problems encountered, and all costs incurred by your company.**

WorldNet has not yet sought to obtain collocation from PRTC. Therefore, this interrogatory is not applicable. Please see WorldNet's Interrogatory Answer 8 above for specific examples of administrative and operational problems WorldNet has experienced in dealing with PRTC to obtain UNE-P.

11. **Describe your company's experiences, if any, with PRTC in obtaining cross connects, including in such description the process and timeframes, any**

administrative, operational, or technical problems encountered, and all costs incurred by your company.

WorldNet has not yet sought to obtain cross connects from PRTC. Therefore, this interrogatory is not applicable. Please see WorldNet's Interrogatory Answer 8 above for specific examples of administrative and operational problems WorldNet has experienced in dealing with PRTC to obtain UNE-P.

12. Describe your company's experiences, if any, with PRTC in interconnecting your company's network facilities with PRTC network facilities, including in such description the process and timeframes, any administrative, operational, or technical problems encountered, and all costs incurred by your company.

As outlined in Interrogatory Answer 8 above, WorldNet has experienced severe difficulties in attempting to obtain interconnection from PRTC. It was necessary for WorldNet to file a complaint with the Board against PRTC in order to obtain an interconnection agreement on satisfactory terms. *See WorldNet Telecommunications, Inc. v. PRTC*, JRT-2002-Q-0076 (filed September 23, 2002). WorldNet and PRTC entered into a settlement agreement concerning this complaint in March of 2003. However, in August of 2003, PRTC's failure to abide by this agreement forced WorldNet to file yet another complaint against PRTC. *See WorldNet Telecommunications, Inc.'s Request for Suspension and Investigation of Tariff Pursuant to Art. III-7(C) of Act 213*, Case No. JRT-2003-Q-0143 (filed August 15, 2003).

WorldNet experienced equally severe problems earlier this year when it attempted to negotiate with PRTC for a successor to its original interconnection agreement. On September 11, 2003, these difficulties resulted in WorldNet filing yet another complaint against PRTC with the Board. WorldNet's complaint alleges that PRTC failed to negotiate in good faith, in violation of Section 251(c)(1) of the federal Communications Act. *See Complaint, WorldNet Telecommunications, Inc., v. Puerto Rico Telephone Company, Inc.*, Case No. JRT-2003-Q-

0174 (September 11, 2003). In particular, PRTC's use of an interconnection template that is unsuitable for Puerto Rico caused WorldNet to incur hundreds of hours and tens of thousands of dollars in attorney and company time just to produce a redline of the agreement in order to re-address many of the Puerto Rico issues the existing template had already addressed. A substantial portion of this expense and delay could have been avoided had PRTC had merely used the parties' prior, Puerto Rico-specific agreement. And, even after WorldNet incurred this great cost, PRTC refused to respond to WorldNet's redline of the agreement in a timely manner, forcing WorldNet to file an arbitration petition with an excessive number of issues that have not even been commented on by PRTC.

WorldNet's Washington, D.C.-based regulatory counsel has been involved in over 200 interconnection agreement negotiations since 1996. Of all of these negotiations, no party has been less willing to compromise or deal in good faith than PRTC. PRTC's interconnection negotiation tactics represent a significant barrier to entry to the Puerto Rico market.

13. **Describe your company's experiences, if any, with PRTC in obtaining number portability from PRTC, including in such description the process and timeframes, any administrative, operational, or technical problems encountered, and all costs incurred by your company.**

WorldNet does not currently port telephone numbers to or from PRTC. However, this fact will likely change as UNE processes and procedures are developed by PRTC and readily available to WorldNet. The availability of efficient number portability mechanisms is a prerequisite for the successful future deployment of WorldNet switched facilities.

14. Identify any and all areas within Puerto Rico in which the cost of providing high capacity switched services to business customers by deploying and/or utilizing your company's own high capacity switch would outweigh likely revenues gained by such provision of services.

As detailed in prior responses to Interrogatories submitted by the Board, *see* WorldNet's Responses to the Board's Interrogatories, Answer to Interrogatory 17 of Attachment II, October 17, 2003, WorldNet believes that economic barriers exist throughout the entire island that preclude WorldNet from deploying its own switch to provide high capacity switched services to business customers. Among the huge hurdles to deployment of a switch is the lack of an interconnection agreement that would set prices for facilities, including but not limited to vital issues, such as transport and collocation, which are necessary for facilities-based competition. The lack of such an agreement makes it impossible for WorldNet to formulate a business plan that would enable it to deploy its own switches. In addition, WorldNet possesses only a relatively small number of enterprise customers, which would need to be linked through a large and expensive network of transport facilities.

Moreover, and perhaps most importantly, based on its past experiences with PRTC's complete inability to provision UNE-P, WorldNet believes that PRTC also would be unable to provide transport, loops, or collocation, which would significantly drive up the cost of facilities-based entry. In WorldNet's experience, every significant new step in competition requires filing a costly and extensive complaint against PRTC to obtain. WorldNet's ultimate goal is to deploy its own facilities so that it can better control its costs and its own network so that it does not have to rely on PRTC's facilities. Nonetheless, any economic analysis must take into account PRTC's failure to provide necessary facilities and the extra costs created by PRTC's negotiating and non-compliance tactics. It would be economically irrational to deploy a switch that might sit idle for months or even years as a result of PRTC's failure to provision UNE loops, transport, or

collocation. Any such deployment could not be achieved economically until PRTC's provisioning problems and costly delays in negotiating interconnection agreements – as well as the necessity of taking additional action such filing complaints with the Board to force compliance once an agreement *is* negotiated – are fully resolved.

In WorldNet's experience, PRTC is neither prepared nor inclined to make facilities-based competition in Puerto Rico economically possible. To begin with, WorldNet believes that the record in this proceeding will reveal that PRTC has marginal, if any, experience in providing the services and activities involved in competitor facilities deployment. This inexperience alone and the inevitable operational and administrative problems created by it will most certainly increase the economic burden of facilities deployment by competitors beyond what such competitors would face in other jurisdictions.

Perhaps more importantly, WorldNet submits that the economic barriers created by PRTC's inexperience will be compounded by an almost unparalleled history of PRTC process and performance failures in dealing with its competitors. In WorldNet's experience, the cost of PRTC action or performance has in many cases been (1) the cost of months or even years of PRTC inaction and non-compliance, (2) the cost of almost constant WorldNet follow-up and escalation with PRTC on service failures, and ultimately (3) the cost of filing a complaint with the Board. Moreover, even when PRTC has purported to act to satisfy its contractual and legal obligations to competitors, it has responded with ad hoc, piecemeal, unwritten, and often ignored processes, procedures, and performance that increase competitor costs exponentially as well. For example, PRTC did not develop or provide any procedures to make UNE-P available until a year ago (i.e., more than six years after it was required by federal law to do so), and even then it was done under the shadow of a Board complaint and produced a process that generates consistent

and recurring billing errors, unnecessary customer disconnections, and bills based on estimated, instead of actual usage of the UNE-P lines.

Finally, WorldNet submits that Puerto Rico generally is not yet prepared to a point where facilities-based competition would be economically viable without access to PRTC switching. To begin with, unlike many of its counterpart jurisdictions in the states, Puerto Rico has yet to enact or provide comprehensive performance standards for PRTC in its provision of critical services to competitors. The absence of these standards has relegated competitors to trying to create such standards through contractual obligations and, in most cases, extremely costly and extended enforcement proceedings before the Board. Furthermore, PRTC's current position is to eliminate current standards and deny any and all specific performance standards and enforcement mechanisms such as penalties or liquidated damages in the new contract.

Moreover, as noted above, competitive deployment of local circuit switches in Puerto Rico has been negligible in comparison with other jurisdictions governed by the TRO. Puerto Rico simply has not yet had the opportunity to establish the support systems made up of vendors, consultants, technical experts, and other critical resources that have become readily available in other jurisdictions. Without access to PRTC switching, competitors in Puerto Rico would effectively be forced to incur the cost of creating these support systems from scratch. And, they would be forced to do so (unlike competitors in most other jurisdictions) where the primary opportunity that Congress created to transition to facilities-based service (i.e., UNE-P) has only been made marginally available by PRTC for the last year. Indeed, as noted above, PRTC has yet to honor any requests for high capacity UNE-P circuits.

Another factor preventing economic deployment of a switch in Puerto Rico is the lack of availability of competitive transport facilities. Under even the best case scenario, a switch owner

would have only two alternatives for transport on the island: PRTC or Centennial. In the highly likely event that Centennial does not provide service on a particular route, WorldNet would be compelled to obtain transport from PRTC, which would have no incentive to provide this service swiftly or at a competitive price.

In short, competitors in Puerto Rico will, at a minimum, face virtually no existing competitive alternatives needed services such as transport, little (if any) PRTC experience in providing the services required for competitive switch deployment, and a demonstrated PRTC track record of unparalleled and costly service apathy and failures. Each of these factors, and perhaps others revealed in the record to be developed in this proceeding, will create significant and unique economic barriers in Puerto Rico for competitors wishing to serve the high capacity business market.

15. Identify any and all locations, types and amounts of transport facilities that you have self-deployed, and whether these facilities are available for wholesale lease by competitors.

WorldNet has not self-deployed any transport facilities. Therefore, this interrogatory is not applicable.

16. For each area identified in response to the preceding interrogatory, please identify, to the extent reasonably possible, the projected cost providing high capacity switched services to business customers by deploying and/or utilizing your company's own high capacity switch, potential revenues gained by such provision of services, and the prices that your company would likely to be able to charge for such services in the area.

As noted in its answer to Interrogatory 15, WorldNet has not self-deployed any transport

facilities. Therefore, this interrogatory is not applicable.

Respectfully submitted,

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